

In the Matter of the Impasse Between:

COUNTY OF SAN BERNARDINO

Employer,

and

**SAFETY BENEFIT EMPLOYEES
ASSOCIATION,**

Exclusive Representative.

**DISSENT OF MICHAEL EAGLESON
TO FACT-FINDING REPORT AND
RECOMMENDATIONS**

PERB CASE NO.: LA-IM-3809-E

HEARING HELD: MARCH 11, 12, 13

REPORT ISSUED: APRIL 15

FACT-FINDING PANEL

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County Panel Member: **Robert Windle**
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County of San Bernardino
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SEBA Panel Member: **Michael Eagleson**
SEBA Executive Director
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DISCUSSION:

I concur that SEBA presented a very “detailed and thorough analysis of the County’s budget history”. SEBA proved that the County has maintained a “very conservative budgeting policy”. In fact, SEBA proved, utilizing County data that it has consistently over the last five fiscal years substantially under-estimated its revenues while over-estimating its expenses. SEBA proved that these annual differences are “favorable variances” which generate an annual surplus of hundreds of millions of dollars. The evidence supported the fact that the County’s policies and budgeting practices institutionalize an annual savings which is distributed on a “one-time basis”. SEBA provided expert testimony demonstrating that for the last five fiscal years the favorable variances have been 10, 13, 14, 18 and 18%. The expert testimony clearly stated that these favorable variances are exceptionally high. SEBA provided compelling evidence that these excess monies can be used to pay for ongoing labor costs including wage and healthcare benefits. There was no countermanding testimony offered by the County to negate the favorable variance numbers asserted by SEBA’s expert witness.

SEBA provided compelling evidence to demonstrate that the County maintains cash reserves which are far in excess of nationally recognized benchmarks. The unrestricted fund balances (reserves), are in some cases three times higher than the national benchmarks. The benchmarks analyzed by SEBA experts were Fitch’s, Moody’s, Standard & Poor’s as well as the Government Finance Officers Association (“GFOA”) benchmark. As measured against every benchmark, the County has improved and strengthened their unrestricted fund balances (reserves). SEBA provided ample evidence to suggest that these General fund balances are sources of payment for wages and benefits. SEBA also provided compelling evidence that the cost of the proposals by the bargaining units would not compromise nor bring the County to a position where it would reduce County reserves to an amount even close to the recommended benchmarks.

SEBA provided compelling evidence that the County has strong cash and investment balances and they continue to grow at a healthy rate. The growth of County assets has increased the County’s options and ability to respond to economic downturns.

SEBA proved that assessed valuations and resulting property taxes for the County have increased considerably over the last several years. Other forms of revenue including sales tax, licenses and permits have increased at a strong rate. All revenues are trending in an upward and positive direction. Specifically, the County’s most important tax revenue, property tax, is currently healthy and growing.

The majority opinion states that the financial evidence which was for the most part uncontroverted, “would have been persuasive if the County had claimed that it was unable to meet SEBA’s economic demands”. The majority also states that the “County did not claim in the inability to pay”. The evidence clearly shows that the County does have the ability to pay and moreover that the County finances are strong, healthy and trending in a very positive direction.

I dissent on the position that since the County did not claim inability to pay that the focus of the opinion should be on comparability and equity. SEBA provided evidence that the County has taken the de facto position that it is unwilling to accommodate reasonable wage and benefit requests in favor of piling up hundreds of millions of dollars in cash and investments while the County employees continue to fall behind in wages and benefits.

The County has created a budgeting illusion that effectively eliminates fair and reasonable wage and benefit enhancements.

RECOMMENDATIONS

SENIORITY SCHEDULING

SEBA provided sufficient evidence to overcome its burden. Specifically it was undisputed in the hearing that Seniority Scheduling only applies to two living units due to the Probation Department unilaterally restricting all other living units from Seniority Scheduling. The SEBA proposal should be recommended.

DIFFERENTIALS

Swing and graveyard shift differentials. SEBA provided sufficient evidence and justification for providing the shift differentials requested. The evidence demonstrated the hazards associated with shiftwork as well as the necessity to incentivize employees. The evidence also showed that the county would benefit from the incentives by drawing more senior people to be less desirable shifts.

OVERTIME

Welfare fraud investigators scheduling. SEBA has already attempted this with HS Management and they were unwilling to negotiate. SEBA has supported its proposal.

TRANSITION PAY

For the members of these two bargaining units who gave up Safety Retirement, the recommended increase in Transitional Pay is inadequate to properly compensate the employees for the loss in retirement benefits. The County provided evidence that there is a cost savings to the County of over 20% by keeping these members in the General Retirement formula rather than them being in the Safety Retirement Formula. SEBA provided compelling evidence to support the cost savings associated with these employees who are not receiving the safety retirement benefit. The evidence demonstrated that County employees in comparable jurisdictions received safety retirement benefits. The County is reaping benefits at the cost of these employees. SEBA's proposals should be supported.

SALARY SAVINGS PLAN

As mentioned in my dissent under Transitional Pay, SEBA provided credible evidence that members who gave up Safety Retirement have not been properly compensated and this is a benefit that would help offset their loss. The proposal should be supported.

MEDICAL BENEFIT PLAN

SEBA provided sufficient evidence from other MOUs within San Bernardino County where other County employees receive greater MPS amounts than the members of these bargaining units. Equity and the County's financial health discussed above warrant support for SEBA's proposal.

SALARY ADJUSTMENTS

As noted above, SEBA provided ample evidence that the County has sufficient funds and reserves to support the SEBA wage proposals. I dissent from the majority opinion that the full wage proposal should not be recommended and the 5.5%, 3% and 3% wage proposals be recommended.

As to the proposal concerning compensation to address compaction for Probation Correction Officers and their Supervisors, I dissent. Although the recommendation provides increase in compensation, it is not enough to have these members recoup the concessions they had made in the past MOU as well as being adequately compensated going forward. SEBA provided sufficient evidence through Salary Surveys to warrant greater compensation. Additionally, SEBA does not agree to the two sub-steps. By adding these steps the County will prolonging the amount of time an employee has to work to reach top step of their salary schedule. At the present time these employees take a longer amount of time to reach the top step than the counterparts. Regarding the Compaction issue for the Probation Corrections Officers, SEBA provided sufficient evidence that showed that the gap between the Probation Corrections Officers and their Supervisors' is 7% greater than the counterparts working in the comparable counties

Respectfully submitted,

April 15, 2015

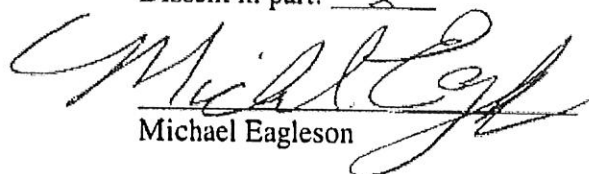
Concur:

Dissent:

Concur in part:

Dissent in part: x

x


Michael Eagleson